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fund Washington's future"*

# Nexus and Apportionment

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# Washington Nexus

**The corporate income/net receipts model and VAT/margins tax models for 2017-19 biennium implicitly rely on (then) current nexus and apportionment rules for the B&O.**

**Nexus:** A business must report B&O in Washington if certain criteria are met.

The criteria have changed over time and previously differed between retailing, wholesaling, and service activities.

## Washington Nexus (Current Rules)

- A business must report B&O tax (and sales tax) if any of the following apply to the business in the current or prior year:
  - It has physical presence nexus in WA.
  - It has > \$100,000 of combined gross receipts in WA.
  - It is organized or commercially domiciled in WA.
- These thresholds apply to retailing, wholesaling, and service and other activities.
- Physical presence nexus requires only more than the slightest presence e.g.: 1+ employee in WA, owning/renting property in the state, inventory in the state, soliciting sales in WA, etc.

# Washington Nexus Rules July 2017 - Present

Period	July - Dec 2017	2018	2019	2020-
<b>Retailing B&amp;O</b>	<ul style="list-style-type: none"> <li>- Physical presence,</li> <li>- \$267k receipts,</li> <li>- 25% WA receipts</li> </ul>	<ul style="list-style-type: none"> <li>- Physical presence,</li> <li>- \$285k receipts,</li> <li>- 25% WA receipts</li> </ul>	<ul style="list-style-type: none"> <li>- Physical presence,</li> <li>- \$285k receipts,</li> <li>- 25% WA receipts</li> </ul>	<ul style="list-style-type: none"> <li>- Physical presence,</li> <li>- \$100k receipts,</li> <li>- Commercial domicile</li> </ul>
<b>Wholesaling B&amp;O</b>	<ul style="list-style-type: none"> <li>- WA residence or domicile,</li> <li>- \$267k receipts,</li> <li>- \$53k of WA payroll/property</li> <li>- 25% any factor</li> </ul>	<ul style="list-style-type: none"> <li>- WA residence or domicile,</li> <li>- \$285k receipts,</li> <li>- \$57k payroll</li> <li>- \$57k property</li> <li>- 25% any factor</li> </ul>	<ul style="list-style-type: none"> <li>- WA residence or domicile,</li> <li>- \$285k receipts,</li> <li>- \$57k payroll</li> <li>- \$57k property</li> <li>- 25% any factor</li> </ul>	<ul style="list-style-type: none"> <li>- Physical presence,</li> <li>- \$100k receipts,</li> <li>- Commercial domicile</li> </ul>
<b>Services &amp; Other</b>	<ul style="list-style-type: none"> <li>- WA residence or domicile,</li> <li>- \$267k receipts,</li> <li>- \$53k payroll</li> <li>- \$53k property</li> <li>- 25% any factor</li> </ul>	<ul style="list-style-type: none"> <li>- WA residence or domicile,</li> <li>- \$285k receipts,</li> <li>- \$57k payroll</li> <li>- \$57k property</li> <li>- 25% any factor</li> </ul>	<ul style="list-style-type: none"> <li>- WA residence or domicile,</li> <li>- \$285k receipts,</li> <li>- \$57k payroll</li> <li>- \$57k property</li> <li>- 25% any factor</li> </ul>	<ul style="list-style-type: none"> <li>- Physical presence,</li> <li>- \$100k receipts,</li> <li>- Commercial domicile</li> </ul>

# Apportionment

**Apportionment:** Business that are taxable in Washington and other state(s) determine their Washington B&O taxable income by:

$$B\&O \text{ Taxable} = \text{Apportionable Income} \times \text{Receipts Factor}$$

where:

$$\text{Receipts Factor} = \frac{WA \text{ Income}}{Worldwide \text{ Income} - \text{Throwout Income}}$$

# Apportionment: Throwout Income

$$\text{Receipts Factor} = \frac{\text{WA Income}}{\text{Worldwide Income} - \text{Throwout Income}}$$

**Throwout Income:** Gross income from apportionable activity that:

- Is attributed to a state where the taxpayer is not taxable in another state, but
- At least some of the activity is performed in Washington.

# Sourcing Income

- Typically, income is sourced based on location good/service is received.
  - At business location of seller?
  - Place of delivery/receipt?
  - Address available in business records?
  - Other address available, such as billing address?
  - Origin of delivery/shipment/transmission
- Special rules apply, for example, to: financial services, leases/rentals, direct mail transactions, watercrafts, manufactured/mobile homes, telecommunication services.

## Attribution of Apportionable Income

- If an activity of a business is attributable to Washington and 1 or more other states/jurisdictions, attribution of income from that activity follows a “cascading series of steps.”
  - **\*\* Proportionately with benefit received \*\***;
  - State of primary (50%+) benefit;
  - State from which customer ordered service;
  - State to which billing statements/invoices are sent;
  - State from which customer sends payment;
  - State of customer address listed in business records/contract;
  - State of taxpayer’s commercial domicile.



# Questions for us?